

PURPOSE

The purpose of this guidance document is to provide the user with an understanding of the thinking behind the tool.

APPLICATION

Risk assessment of procurement.

INSTRUCTION

Background

Bidding on public tenders is always based on a cost-benefit analysis with the costs arising from the bid on the one hand and the size of the contract and likelihood of obtaining it on the other.

The arising costs as well as the likelihood of being awarded the contract can be extremely difficult to assess in markets with weak legislation, implementation, and institutions on public procurement which may also be weak and/or host corrupt practices. What can be done, though, is to look for indicators or “red flags” in the different phases of the process and devise a strategy based on this. Furthermore, being well-informed and taking the relevant precautions are very important in order to reduce risks when engaging in bids for public procurement.

Where to seek general information

Although legislation on public procurement and contracting is often present, the implementation thereof and practical conduct of tender authorities can be very different. Knowledge of legislation and practise thus has to be investigated as an initial assessment step. The “Public Procurement and Contracting” section in the Country Profiles on the [Business-Anti-Corruption Portal](#) can be used as a point of departure and additional regional/sector specific information can be obtained through exploring the Information Network in the country in question and/or through the local trade associations and trade councils at the relevant embassies.

A simple model

In evaluating the risk of engaging in a public tender, the main characteristics of a competitive tender which, from a procedural point of view, may be worthwhile are:

- Fairness: A fair tender ensures that all interested and competent companies have an equal chance to participate. From the procurer’s side, this is to make sure that the best price and quality is achieved.
- Transparency: A transparent tender ensures that all participating companies are treated on equal terms and that all procedural steps are based on written and known procedures. Furthermore, the criteria for the award of contract are known and do not favour any particular company. Transparency also entails that the process can be backtracked through a paper trail and that the award of contract is done openly.
- Recourse Mechanism: A public procurement system should be open to contestation and an independent system of recourse on procedural matters as well as the contract award should be in place.

The risks arising from corrupt practices in public procurement can range from simply not being awarded a contract to being subject to extortion. Many risks are much wider than corruption and the better the control and management system the less serious are the presence of “red flags”.

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Based on an assessment of risks related to procurement, companies can get a rough indication of the types of strategies that follow from the following matrix:

Recourse mechanisms	Strong	When a public procurement process and system is assessed as lacking transparency and/or fairness, but viable possibilities for recourse exist either through formal institutions or through collective actions such as integrity pacts or international finance institutions, a bid can be submitted; however, the company needs to be very careful in keeping a paper trail and documenting all steps in the process in order to be able to make a solid case through the recourse mechanism. Furthermore, it is crucial that all rules are followed. Engaging other companies or civil society in the process can also be an advantage.	A system with a high level of transparency and fairness combined with good possibilities of recourse usually presents the company with good possibilities for engaging in public procurement. Nevertheless, good preparation and due diligence is crucial for engaging in public procurement in any context.
	Weak	Engaging in public procurement when a risk profiling shows a low level of transparency and fairness combined with the absence of formal recourse mechanisms or collective integrity initiatives can be very risky and should be avoided unless the company has detailed knowledge of the associated risks and consequences, or the company plans to initiate integrity pacts or other collective actions to reduce the risks of corruption.	The absence of a viable recourse mechanism combined with a system with a high level of transparency and integrity makes it important to follow all procedures and rules in the process. When calculating the costs and benefits of engaging in a bid, the company should keep in mind that in the absence of a recourse mechanism everything has to be done correctly the first time. It can be an advantage to engage in or initiate collective actions with other companies, business associations, international finance institutions, or NGOs in order to make informal control Mechanisms.
		Low	High
Transparency and Fairness			

Links to other documents

The process applied in the Procurement Tool is outline in the procedure, “Procedure Tool”.

The actual assessment of risk is described in the instruction, “Risk Assessment, Procurement”.

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